

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

HERLINDA FRANCISCO and JAVIER BRAVO,
*on behalf of themselves, FLSA Collective Plaintiffs,
and the Class,*

Plaintiffs,

-against-

EXCLUSIVE MANAGEMENT SOLUTION
GROUP, INC., JOHN DOE
CORPORATIONS 1 – 50, and DMITRIY
BEREZOVSKY a/k/a DMITRY BEREZOVSKIY,

Defendants.

ANALISA TORRES, District Judge:

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24 Civ. 3928 (AT) (RWL)

**ORDER ADOPTING
REPORT AND
RECOMMENDATION**


Plaintiffs, Herlinda Francisco and Javier Bravo, bring this action against Defendants, Exclusive Management Solution Group, Inc., fifty John Doe corporations, and Dmitriy Berezovsky a/k/a Dmitry Berezovskiy, alleging violations of the Fair Labor Standards Act (“FLSA”), 29 U.S.C. § 201 *et seq.*, 26 U.S.C. § 7434, and the New York Labor Law (“NYLL”), N.Y. Lab. Law §§ 190 *et seq.*, 650 *et seq.*, as well as breach of contract and unjust enrichment. *See generally* ECF No. 30. Before the Court is Defendants’ motion to dismiss. ECF No. 34.

After careful consideration, the Honorable Robert W. Lehrburger issued a report (the “R&R”) recommending that the Court deny in part and grant in part Defendants’ motion. *See generally* R&R, ECF No. 90. Although the R&R notified the parties of their right to object to the R&R, no objections were filed and the time to do so has now passed. *See* R&R at 26; Fed. R. Civ. P. 72(b)(2). Because no objection was made, the Court reviews the R&R for clear error. *Santiago v. Colvin*, No. 12 Civ. 7052, 2014 WL 1092967, at *1 (S.D.N.Y. Mar. 17, 2014); *Urena v. New York*, 160 F. Supp. 2d 606, 609–10 (S.D.N.Y. 2001). The Court finds no clear error in Judge Lehrburger’s thorough and well-reasoned R&R.

Accordingly, the Court ADOPTS the R&R in its entirety. Defendants’ motion to dismiss, ECF No. 34, is GRANTED IN PART and DENIED IN PART. Plaintiffs’ claims of breach of contract, unjust enrichment, and unpaid call-in pay are DISMISSED. In all other respects, Defendants’ motion is DENIED. *See* R&R at 26.

SO ORDERED.

Dated: July 28, 2025
New York, New York



ANALISA TORRES
United States District Judge